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August 15, 2017

VIA ELECTRONIC & US MAIL

Ms. Jennifer LaPoma
ATTN: Lower Passaic River Remedial Project Manager
Emergency and Remedial Response Division
U.S. EPA, Region 2
290 Broadway, 19th Floor
New York, New York 10007

Re: Monthly Progress Report No. 123 – July 2017
Lower Passaic River Study Area (LPRSA) Remedial Investigation/Feasibility Study
(RI/FS)
CERCLA Docket No. 02-2007-2009

Dear Ms. LaPoma:

de maximis, inc. is submitting this Monthly Progress Report for the above-captioned project on the behalf of the RI/FS Agreement Settling Parties (Cooperative Parties Group or CPG) pursuant to the Administrative Settlement Agreement and Order on Consent (Settlement Agreement or AOC). The Progress Report satisfies the reporting requirements of Paragraph 42 of said Settlement Agreement. The CPG has revised this Progress Report to address the Region's direction in its September 1, 2015 letter about Section (d).

(a) Actions which have been taken to comply with this Settlement Agreement during the previous month.

Meetings/Conference Calls

- On July 5, EPA Region 2 (Region 2) and CPG held a meeting to discuss CPG's proposed Upper 9-mile Plan.
- On July 24, Region 2 and CPG met to discuss Region 2's comments on the revised Draft 17-mile Baseline Ecological Risk Assessment (BERA).
- On July 26, Region 2 and CPG held a conference call to discuss the Region's comments on the Draft 17-mile RI Report.
- On July 27, Region 2 and CPG held a conference call to discuss the status of Modeling and Constituents of Potential Concern (COPC) mapping.

Correspondence

- On July 3, Region 2 provided comments on CPG's Draft 17-mile Remedial Investigation/Feasibility Study (RI/FS) schedule to CPG.
- On July 3, Region 2 provided revised draft Remedial Action Objectives (RAOs) to CPG for incorporation into the FS process.



Ms. J. LaPoma LPRSA RI/FS - Progress Report No. 123 – July 2017 August 15, 2017 Page 2 of 8

- On July 6 and 7, CPG and Region 2 exchanged emails regarding the schedule for completing the RI/FS.
- On July 10, CPG and Region 2 exchanged emails regarding the schedule for delivery of Upper 9-mile Plan Proposal and the Reach-by-Reach evaluations above River Mile (RM) 8.3 and a suggestion by CPG to hold a conference call to discuss the Draft 17-mile RI Report and Appendix J comments.
- On July 11, Region 2 suggested dates to CPG to hold two separate conference calls to discuss the Appendix J comments and the other Draft 17-mile RI Report comment topics.
- On July 12, CPG requested a meeting with Region 2 on July 24 and 25 to discuss comments on the Draft 17-mile RI.
- On July 13, Region 2 requested additional information from CPG regarding the list of Agency comments with questions or concerns on the revised Draft BERA for discussion during the requested meeting on July 24 and 25.
- On July 13, Region 2 and CPG exchanged emails proposing dates for a meeting to discuss Modeling and COPC Mapping.
- On July 14, CPG submitted the Upper 9-mile Plan to Region 2 and Region 2 acknowledged receipt of the Plan for review.
- On July 14, CPG indicated to Region 2 they would setup a conference call/web ex for meetings scheduled the week of July 24th with Region 2 regarding Modeling and COPC Mapping and RI comments.
- On July 17, CPG delivered the June Monthly Progress Report to Region 2.
- On July 18, CPG provided Region 2 a more detailed list of questions and concerns on the revised Draft BERA for discussion during the scheduled July 24 and 25 meeting.
- On July 24, Region 2 provided a response to the Upper 9-mile Plan submitted by CPG.
- On July 24, CPG notified Region 2 that the Final 17-mile Baseline Human Health Risk Assessment (BHHRA) had been uploaded to the EPA's SharePoint site.

Work

- CPG continued to work on addressing to Region 2's comments on the revised Draft 17mile RI Report and Model Appendices.
- CPG completed revision of the Final BHHRA in response to Region 2 comments.
- CPG worked to address Region 2's June 30 comments on the revised Draft BERA.
- CPG continued work on preliminary identification and evaluation of upper 9-mile remedial alternatives

(b) Results of Sampling and Tests

None.

Ms. J. LaPoma LPRSA RI/FS - Progress Report No. 123 – July 2017 August 15, 2017 Page 3 of 8

(c) Work planned for the next two months with schedules relating to the overall project schedule for RI/FS completion

- CPG will continue work on the revised Draft 17-mile RI Report and Model Appendices in response to Region 2 comments with an anticipated delivery in late December 2017.
- CPG will complete the Upper 9-mile Reach-by-Reach Analysis and deliver it to EPA in late August 2017.
- CPG will continue calibration of the revised LPR/Newark Bay CFT model with anticipated delivery in late September 2017.
- CPG will revise the Draft BERA to address Region 2 comments and the July 24 meeting discussions with an anticipated delivery in late November 2017.
- CPG will continue preliminary identifications of remedial alternatives for the upper 9miles.

(d) Problems encountered and anticipated problems, actual or anticipated delays, and solutions developed and implemented to address actual or anticipated problems or delays.

The CPG has agreed to retain only near-term problems and concerns in the monthly reports moving forward pursuant to the direction in Region 2's September 1, 2015 letter; however, previous Progress Reports through July 2015 document in Section (d) significant issues and matters largely the result of actions and decisions by the Region and its Partner Agencies that have significantly delayed and complicated the completion of the 17-mile RI/FS. The removal of this previous information does not in any way lessen its impact on the completion of the 17-mile RI/FS.

- Remedial Investigation (RI) Report The CPG submitted the Draft 17-mile RI Report over one year ago on February 18, 2015. The CPG inquired about the status of the draft 17-mile RI Report during the February 17, 2016 COPC Mapping meeting and Region 2 was unable to provide a definitive date to deliver comments on the draft report. Region 2 provided 618 comments on the Draft 17-mile RI Report and LPRSA Models on April 14, 2016. The extended delay by the Region in providing the comments was beyond the control of the CPG and will further delay the completion of the 17-mile RI/FS. The Region and the CPG are in the process of comment review and resolution and provide preliminary responses to comments within 60 days as directed by the Region in its July 14, 2016 email. The CPG delivered responses to Region 2 non-modeling Draft RI Report comments on September 13, 2016. The CPG delivered responses to the EPA's RI Report modeling comments on February 9, 2017. The CPG received EPA's evaluation of the CPG's September 2016 The July 26 teleconference identified responses to comments on April 26. outstanding comments and potential resolution. The CPG will continue revisions to the 17-mile RI Report.
- Feasibility Study (FS) The CPG delivered the Draft FS over 2 years ago on April 30, 2015. The Region stated in its August 4, 2016 RAO/PRG Technical

Ms. J. LaPoma LPRSA RI/FS - Progress Report No. 123 – July 2017 August 15, 2017 Page 4 of 8

> Memorandum comments it has decided not to provide comments on the Draft FS. In addition, Region 2 provided comments on the Draft RAO/PRG Technical Memorandum (submitted on March 27, 2015), Draft Alternatives Screening Technical Memorandum (submitted on April 16 and 21, 2015) and the Draft Alternatives Evaluation Technical Memorandum (submitted on April 26, 2015). provided comments on August 4, 2016 after more than 16 months for the RAO/PRG Technical Memorandum and informed the CPG that comments on the remaining two Technical Memoranda will be provided by the end of September. The CPG provided a preliminary response to comments to the Region's RAO/PRG Technical Memorandum comments on September 6. Region 2 provided comments on the Draft Alternative Screening Technical Memorandum and the Draft Alternatives Evaluation Technical Memorandum on September 29, 2016 - 17 months after delivery of the memoranda. The CPG prepared and delivered responses on December 2, 2016 as directed by Region 2. The extended delay by the Region in providing the comments on the FS technical memoranda is beyond the control of the CPG and will further delay the completion of the 17-mile RI/FS. The CPG provided two suggested streamlining options to Region 2 on March 10, 2017 and offered a series of collaboration meetings to support this approach Region 2 and the CPG are currently discussing refocus of the FS to the Upper 9-miles and accelerating its completion.

Baseline Human Health Risk Assessment (BHHRA) - The CPG submitted the Draft 17-mile BHHRA on June 6, 2014 and the Region provided comments on June The CPG and the Region conducted several teleconferences and exchanged correspondence throughout June and August 2015. The CPG provided responses to comments (RTC) on August 21, 2015. In addition, the CPG prepared responses to the Region's July 15, 2015 additional comments, which were submitted to the Region on September 1, 2015. As documented in the CPG's RTCs, many of the Region's comments direct the CPG to make changes to the Draft BHHRA that are inconsistent with the Region 2-approved Problem Formulation Document and the CPG's October 2013 Risk Assessment and Risk Characteristic Plan and the associated Region 2's January 31, 2014 comments and USEPA risk assessment guidance. The Region failed to meet the 30-day turnaround on responding to the CPG's response to comments that it proposed in its July 20, 2015 letter to the CPG; the failure to provide a timely response caused further delay to the delivery of a revised Draft 17-mile BHHRA and ultimately further delays the completion of the 17mile RI/FS. The CPG received the Region's responses on October 16, 2015 and October 30, 2015. The CPG informed Region 2 that it would submit a revised Draft 17-mile BHHRA by December 18, 2015 during an October 22, 2015 conference call. The Region did not provide additional clarification on several remaining issues until December 4 which did not delay delivery of the revised Draft 17-mile BHHRA by the CPG. The CPG submitted a revised Draft 17-mile BHHRA on December 18, 2015. The Region provided a response to the CPG's December 18 transmittal letter on January 7, 2016; the CPG responded to the Region's letter on April 13, 2016. The

Ms. J. LaPoma LPRSA RI/FS - Progress Report No. 123 – July 2017 August 15, 2017 Page 5 of 8

Region provided its comments on August 25 on the December 2015 revised Draft BHHRA more than 8 months after delivery. As directed by the Region, the CPG provided its responses on September 26. Region 2 promised to provide its responses in December 2016; however, this was subsequently delayed by the Region until January 5, 2017. The Region and CPG had a call on January 19 to discuss the January 5 responses. The CPG delivered a second revision to the Draft 17-mile BHHRA on March 1, 2017 to the Region. The Region provided additional comments on the second revision to the CPG on June 14, 2017. The CPG delivered the Final 17-mile BHHRA on July 24, 2017

Baseline Ecological Risk Assessment (BERA) - The CPG submitted the Draft 17mile BERA on June 13, 2014 and the Region provided comments on May 1, 2015. The CPG and the Region conducted several teleconferences and exchanged correspondence throughout May and July 2015. The last teleconference was conducted on July 29, 2015, during which the Region requested the CPG provide a list of action items. The action items were provided on July 30 and included three items for Region 2 and one item for the CPG that required the Region's input. The Region provided its response to these two of these action items on December 22. The CPG provided Draft 17-mile BERA responses to comments (RTCs) on September 11, 2015 and additional material on September 15, 2015; the Region stated in its July 20, 2015 letter that it would provide its responses in 30 days -Region 2's responses were received in part on December 22, 2015 - more than two months later than promised. The Region provided the remaining material on January 5, 2016. The Region and CPG conducted a teleconference to clarify a number of issues on January 13, 2016. The CPG received additional Mullica River and Great Bay reference data from the Region 2 on June 7, 2016 which was heretofore not available to the CPG which addresses the CPG's concerns about this reference data The Region provided further statements on June 20, 2016 with respect to common carp that did not resolve the inconsistent comments and previous statements by the Region (Dec. 2015 BERA Comment 3 Response and RI Comment 179). The Region and CPG communicated via emails, a July 6, 2016 telephone call and the CPG's July 18, 2016 letter to the Region discussing the revised Draft 17-mile BERA schedule and outstanding issues. As discussed in CPG's July 11, 2016 email and July 18, 2016 letter, the CPG anticipates that it will take until October 1, 2016 to deliver a revised Draft 17-mile BERA based on the extensive changes that the Region has directed, delays in providing the additional reference data and assuming the remaining matter of common carp in the Draft 17-mile BERA are quickly resolved. The Region agreed to an October 1 (actual delivery will be on October 3 since October 1 is a Saturday) delivery date in its August 4, 2016 letter. The CPG delivered a set of clarifications regarding the Draft 17-mile BERA on September 12, 2016 and received responses from the Region on September 27, 2016; the CPG disagrees with the Region's contention that these were previously resolved by earlier communications. Thereafter, on October 3, 2016, Region 2 refused a CPG request for a brief extension for the delivery of the revised Draft 17-mile BERA. The revised Ms. J. LaPoma LPRSA RI/FS - Progress Report No. 123 – July 2017 August 15, 2017 Page 6 of 8

Draft BERA was submitted on October 7, 2016. A transmittal letter detailing a number of the CPG's significant disagreements with the directives imposed by the Region was delivered to the Region's LPR SharePoint on October 19, 2016. Region 2 requested that the CPG provide a hardcopy of the October 2016 revised Draft 17-mile BERA to the NJDEP on December 8, 2016 – two months after the revised Draft BERA was posted the Region's LPR SharePoint on October 7, 2016. The Region provided comments on the October 2016 version of the revised Draft 17-mile BERA on June 30, 2017. Region 2 and CPG met on July 24 to discuss the BERA comments and developed an Action Item list to facilitate the revision and anticipated delivery of a Revised 17-mile BERA in November 2017.

COPC Mapping - The CPG began discussions with the Region regarding COPC mapping in May 2013 with the submission of the "Lower Passaic River Surface Sediment Concentration Mapping Technical Memorandum". The CPG has attempted, but was unable to conduct significant and meaningful dialogue with the Region on COPC mapping between that time and early 2015. COPC Mapping is an integral part of the 17-mile RI/FS including the chemical fate and transport modeling and the identification and evaluation of remedial alternatives. Both the mapping approach and data density are consistent with mapping and data density at other large sediment sites such as the Hudson River, Fox River, and the Lower Duwamish. The Region and CPG representatives met on March 18, 2015 to discuss the CPG's mapping and agreed to follow-on discussions. The Region and the CPG agreed to meet on June 16, 2015 and the Region stated that it would provide its portion for the CPG's review in advance of the meeting. The Region provided its position paper on June 10, 2015. Due to the short-time frame and the complexity of the Region's responses, the CPG postponed the meeting. In a June 12, 2015 email, the CPG requested that the Region provide the underlying documentation for its June 10. 2015 position paper. The Region provided this material on July 20, 2015. The CPG submitted a response to the Region's position paper which was delivered in November 2015 and documents several significant shortcomings in the Region's analysis. The CPG met with Region 2 and USEPA Headquarters on January 27, 2016 to discuss this matter. The CPG completed the action items identified during the February 17, 2016 COPC Mapping meeting and presented the refined COPC Mapping to Region 2 at an April 27, 2016 meeting. On September 20, 2016 more than 5 months after the April 2016 meeting, the CPG asked for and was given provisional approval to proceed with COPC mapping using conditional simulation; Region 2 promised to provide a written confirmation within 1-2 weeks. Region 2 provided preliminary approval of the conditional simulation mapping method on October 11, 2016. The CPG delivered a revised Draft RI Report Appendix J to detail the conditional simulation approach on February 9, 2017. The EPA and CPG had a brief discussion of using the COPC mapping to evaluate remedial benefit during the March 29, 2017 modeling meeting and a meeting was held on May 1, 2017. The Region provided additional comments on the revised Draft RI Report Appendix J on

Ms. J. LaPoma LPRSA RI/FS - Progress Report No. 123 – July 2017 August 15, 2017 Page 7 of 8

June 30, 2017. Region 2 and CPG conducted a teleconference on July 27, 2017 and resolved remaining mapping issues.

- Other Documents There are number of reports and technical memos (both original and revised submissions) that have been submitted to Region since 2011 that the CPG is awaiting either approval or Region 2's comments. These reports include:
 - 1. Upstream Reference Benthic Data Report submitted August 2013
 - 2. Background Sediment Data Report submitted October 2013

The CPG has received the Region's comments on a number of previously submitted reports and revised and re-submitted them in November 2015. Please advise the CPG of the Region 2's schedule for action on these remaining documents.

• 17-mile RI/FS Schedule – Region 2 representatives stated at October 2016 Passaic River Symposium that it intends to complete the 17-mile RI/FS in 2018 and issue a Proposed Plan in 2019. The Region proposes an ambitious schedule considering the revisions and additional work that Region has directed for the RI, FS, modeling and related deliverables and its plan to conduct a peer review of the modeling. It will require a concerted effort on the Region's part to provide timely comments on deliverables to meet this schedule. The CPG met with Region 2 on January 24, 2017 to discuss the schedule to complete the 17-mile RI/FS. The CPG is employing this draft schedule during the Region's review. The CPG received comments on the revised January 2017 RI/FS schedule on July 3 and met with the Region on July 5 to discuss alternatives to the current FS approach.

If you have any questions, please contact Rob Law or me at (908) 735-9315.

Very truly yours,

de maximis, inc.

Willard Potter CPG Project Coordinator

cc: Frances Zizila, EPA Region 2 Office of Regional Counsel

William Hyatt, CPG Coordinating Counsel

Lisa Baron, USACE

Ms. J. LaPoma LPRSA RI/FS - Progress Report No. 123 – July 2017 August 15, 2017 Page 8 of 8

> Clay Stern, USFWS Reyhan Mehran, NOAA Jay Nickerson, NJDEP Beth Franklin, USACOE Laura Kelmar, AECOM